

STATE OF ALABAMA       )  
                                  :  
COUNTY OF SHELBY       )

**SHARED DRIVEWAY EASEMENT AND MAINTENANCE AGREEMENT**

THIS DRIVEWAY EASEMENT AND MAINTENANCE AGREEMENT (this "Agreement") is made and entered into as of the 12 day of August, 2013 by **James E. Barnett and his wife, Anne-Michelle Barnett ("the Barnetts")**, and **Ferrell Hataway and his wife, Connie Hataway ("the Hataways")**.

**R E C I T A L S:**

The Barnetts and the Hataways are owners of Lots 2 and 3, respectively, according to the Survey of Meadow Brook Cluster Homes, 2<sup>nd</sup> Sector, as recorded in Map Book 22, Page 110, in the Probate Office of Shelby County, Alabama.

The existing homes on Lots 2 and 3 were built and presently enjoy use of a shared driveway (the "Shared Driveway") from Meadow Ridge Court for the mutual benefit of each lot. The continued use and enjoyment of the homes on Lots 2 and 3 depend upon the continued shared use, maintenance, repair and replacement of that Shared Driveway. Toward that end, the Barnetts and the Hataways ("the Owners") desire to enter into this Agreement for the benefit of each Lot in order to document the existence of the driveway easement, impose certain restrictions concerning the use of the Shared Driveway by Owners of each Lot and provide for maintaining the Shared Driveway in a way which will be binding upon the record owners of fee simple title to each of the Lots and their respective heirs, executors, successors and assigns (individually, an "Owner" and collectively, the "Owners"). The Shared Driveway is the concrete driveway, its dimensions and its physical and aesthetic characteristics as they exist as of the date set out above from the curb at the edge of Meadow Ridge Court to the thresholds of the garage doors for the houses on Lots 2 and 3 and the rear edge of the existing concrete drive.

NOW, THEREFORE, in consideration of the premises, the mutual covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owners do hereby declare and establish that both of the Lots shall be subject to the following covenants, agreements, easements, and obligations, which shall constitute covenants running with the land which shall be binding upon and inure to the benefit of each Owner and their respective heirs, executors, successors and assigns:

1. **Grant of Easement**. Each Owner does hereby grant, bargain, sell and convey to the other a permanent, perpetual and non-exclusive easement over, under, across, through and upon the portion of the Shared Driveway located on its lot for the limited purposes of providing pedestrian and vehicular access to and from both Lots and for the maintenance, repair and



replacement of any of the Shared Driveway, subject to and upon the remaining terms and provisions of this Agreement. Each future Owner, by acceptance of a deed to either Lot, for such Owner and all Occupants, as herein defined, of such Owner's Lot, shall be deemed to acknowledge and agree that vehicular access to and from the garage situated on such Owner's Lot shall be provided over, across, through and upon the Shared Driveway and that the exercise of the easement rights created by this Agreement shall be subject to strict compliance with all of the terms and provisions of this Agreement. As used herein, the term "Occupants" shall mean and refer to the respective family members, agents, employees, tenants and invitees of each Owner.

2. **Restrictions on Use of Shared Driveway**

(a) The following restrictions shall be applicable to the Owners and Occupants of both Lots:

(i) No fences, gates, walls recreational equipment, landscaping facilities, trash facilities, or other similar devices may be constructed, erected, installed or maintained on any portion of the Shared Driveway which would interfere with, limit, restrict, prohibit or deny access to the Owners or Occupants of either of the Lots;

(ii) No vehicles, motorcycles, all terrain vehicles, trailers, boats, recreational vehicles, lawn maintenance equipment or any other machinery or equipment of any nature shall be parked overnight or left unattended on the Shared Driveway unless mutually agreed upon by both Owners;

(iii) No Owner shall allow shrubbery, or landscaping in areas within either Lot directly adjacent to the Shared Driveway that interferes with, impedes or otherwise adversely affects the use of the Shared Driveway. The Owner of each Lot shall be solely responsible for cutting, trimming and removing any trees, shrubbery, or landscaping that interferes with the use the Shared Driveway;

(iv) Except as otherwise provided in Paragraph 3 below, no Owner shall alter, change, modify or otherwise remove any of the Shared Driveway situated on either of the Lots without the prior written consent of the other Owners.

3. **Maintenance, Repair or Replacement.**

(a) To the extent any of the Shared Driveway is damaged or destroyed through the acts of any Owner or such Owner's Occupants, whether such act is willful, negligent or accidental, then the Owner who has caused (or whose Occupants have caused) such damage shall be obligated, at such Owner's sole cost and expense, to promptly repair or replace the Shared Driveway so damaged to substantially the same condition as existed immediately prior to any such damage or destruction.



(b) To the extent any of the Shared Driveway is damaged or destroyed by fire or other casualty, then each Owner of a Lot shall be obligated to pay 50% of the costs of repairing or replacing those portions of the Shared Driveway so damaged or destroyed regardless of whether insurance proceeds are available or are sufficient to pay for such repair or replacement. If by reason of the nature, location, or cause of the damage, the cost of repairing or replacing the Shared Driveway is potentially covered by insurance, each respective Owner with insurance coverage will seek coverage and each Owner will pay 50% of the costs of repair or replacement not covered by insurance proceeds.

(c) Any maintenance activities performed by the Owners, including any surfacing or coatings, shall maintain the current color and surface texture of the Shared Driveway to the extent practicable.

4. **Insurance Requirements.** Each Owner shall maintain liability, property damage or other types of insurance with respect to the Shared Driveway as determined, in their sole discretion, to be appropriate.

5. **Acknowledgments.** By executing this agreement, each Owner intends to make clear the rights and benefits of the Shared Driveway to enhance the present value, use and enjoyment of their respective Lots for themselves and for all future Owners. Each future Owner, by acceptance of a deed to or other conveyance of any interest in either Lot, acknowledges and agrees that:

(a) The Shared Driveway is for the sole and exclusive benefit of the Owners and Occupants of Lots 2 and 3.

(b) Each Owner shall, to the extent required by Paragraph 3 above, be obligated to pay the costs of repairing or replacing the Shared Driveway as needed.

6. **Miscellaneous.**

(a) The captions and headings contained in this Agreement are for convenience of reference only and shall not be used in the construction or interpretation of any provisions of this Agreement. Whenever appropriate in this Agreement, personal pronouns shall be deemed to include all other genders and the singular shall be deemed to include the plural and vice versa.

(b) All of the terms and provisions contained in this Agreement constitute covenants running with the land which shall be binding upon, inure to the benefit of and be enforceable by all Owners and the respective heirs, executors, personal representatives, successors and assigns of each of the Owners. Any grantee accepting a deed to either of the Lots will automatically become a party to and bound by all of the terms and provisions of this Agreement from and after the date of such conveyance.

(c) If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall ever be held to be invalid or unenforceable, then in each such event the remainder of this Agreement or the application of such term, covenant, condition or provision to any other person or any other circumstance (other than those as to which it shall be invalid or unenforceable) shall not be affected thereby and each term, covenant, condition and provision hereof shall remain valid and enforceable to the fullest extent permitted by law.

(d) Nothing contained in this Agreement and no action by the Owners will be deemed or construed by the Owners or by any third party to create the relationship of principal and agent, or a partnership or a joint venture or any association between or among any of the Owners.

(e) This Agreement will be construed in accordance with the laws of the State of Alabama.

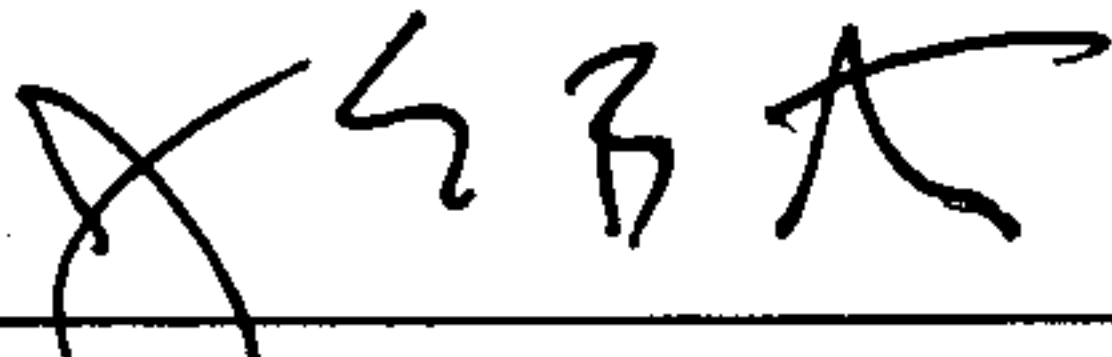
(f) This Agreement and any provision contained herein may be terminated, extended, modified or amended only with the express written consent of the Owners of both Lots. Any such consent shall not be effective to alter the rights and responsibilities of future Owners of Lots 2 and 3 unless such consent is filed for record against the title of both Lots 2 and 3 in the Probate Office of Shelby County, Alabama.

(g) In the event either Owner of either Lot violates any of the terms of this Agreement, then the other Owner in that Owner's sole discretion, shall have the right to undertake any legal or equitable action deemed necessary or appropriate to enforce this Agreement and any and all costs and expenses incurred by such Owner in enforcing this Agreement including, without limitation, attorneys' fees and expenses and court costs, shall be paid by the Owner against whom said action was initiated.

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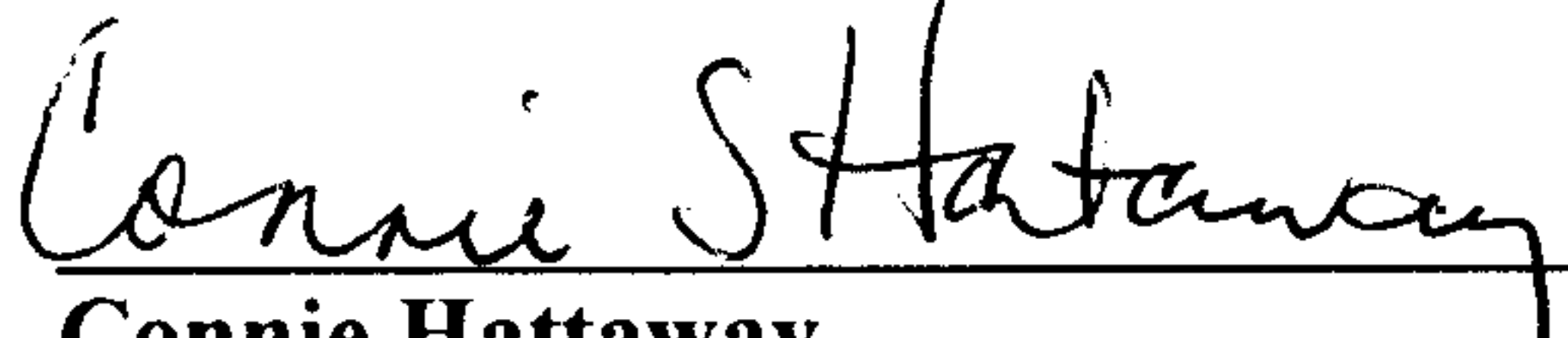


IN WITNESS WHEREOF, the Owners have caused this Agreement to be executed as of the day and year first above written.

  
James E. Barnett

  
Ferrell Hattaway

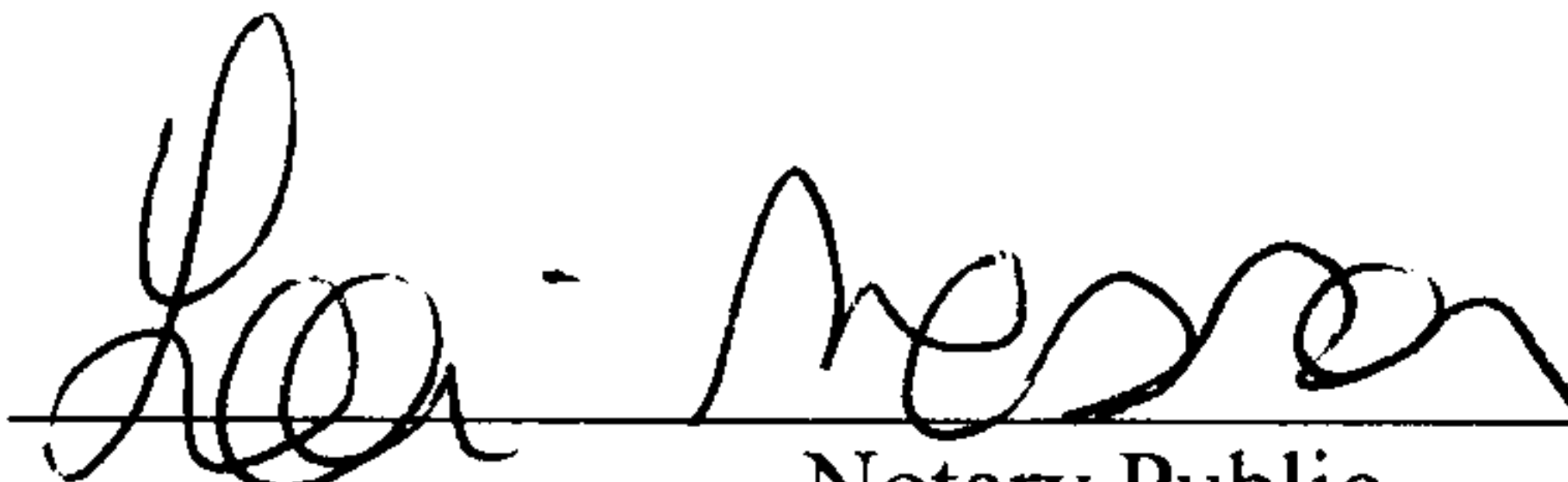
  
Anne-Michelle Barnett

  
Connie Hattaway

STATE OF ALABAMA                     )  
  :  
SHELBY COUNTY                         )

I, the undersigned, a notary public in and for said county in said state, hereby certify that James E. Barnett, Anne-Michelle Barnett, and Ferrell Hattaway and Connie Hattaway whose names are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of said instrument, they executed the same voluntarily.

Given under my hand and official seal this 12 day of August, 2013.


  
Notary Public

[NOTARIAL SEAL]

My commission expires: \_\_\_\_\_

This instrument prepared by:  
Steven G. McKinney  
Balch & Bingham LLP  
1901 6<sup>th</sup> Avenue North  
Suite 1500  
Birmingham, AL 35203  
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Shelby Cnty Judge of Probate, AL  
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